

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

**PLAINTIFF'S OBJECTIONS TO
DEFENDANTS' DEPOSITION DESIGNATIONS**

Plaintiff Ruth Smith, as the Widow for the use and benefit of herself and the next of kin of Richard Smith, deceased, by and through her attorneys, hereby submits Plaintiff's Objections to Defendants' Deposition Designations.

TABLE OF CONTENTS

<u>Witness</u>	<u>Page</u>
1. Larry Alphs	03
2. Frank Berklaich, M.D.	04
3. Wayne Biggs	05
4. Wes Carnahan	06
5. Lucy Castro	07
6. James Cato, M.D.	08
7. Drew Charlton	09
8. Suzanne Doft	10
9. Robert Glanzmann	11
10. Manfred Hauben	12
11. Buford Hoskins	13
12. Sherri Hoskins	14
13. Lloyd Knapp	15
14. Arnold Lawson	16
15. Gayle Lawson	17
16. Edward Mackey, M.D.	18
17. John Marino	19
18. Paul McCombs, M.D.	20
19. Cynthia McCormick	21
20. Atul Pande, M.D.	22
21. Danny Satterfield	24
22. Drusilla Scott	25
23. Cindy Smith-Charlton	26
24. Ruth Smith	27
25. Stewart Stowers, M.D.	28
26. Charlie Taylor	29
27. Janeth Turner	30
28. Chris Wood, D.D.S.	31

Objections to Defendants' Counter Designations:

Deponent: **Larry Alphs**

Deposition Date: **6/22/07**

Beginning Page : Line	Ending Page : Line	Objection	Completeness	Basis for Objection/Additional pg/line for completeness
621:10	626:15	X		Irrelevant

Objections to Defendants' Designations:

Deponent: **Frank Berklacich, M.D.**

Deposition Date: **6/7/2007**

Beginning Page : Line	Ending Page : Line	Objection	Complete-ness	Basis for Objection/Additional pg/line for completeness
14:21	15:1	X		FRE 403; speculative; vague; hearsay
15:2	15:8	X		FRE 402; FRE 403; hearsay
19:6	19:15	X		Assumes facts; misquotes deponent; FRE 403
42:10	42:13	X		Speculative

Objections to Defendants' Designations:

Deponent: **Wayne Biggs**

Deposition Date: **2/8/2008**

Beginning Page : Line	Ending Page : Line	Objection	Complete-ness	Basis for Objection/Additional pg/line for completeness
21:8	22:2	X		Double hearsay; assumes facts; FRE 403
24:3	24:21	X		Speculative
24:22	26:12	X		Irrelevant
27:14	28:2	X		Vague; speculative
52:7	54:5	X		Hearsay; irrelevant
55:11	57.21	X		Speculative; hearsay
57:22	59:6	X		Speculative
73:7	74:6	X		Speculative

Objections to Defendants' Designations:

Deponent: **Wes Carnahan**

Deposition Date: **10/23/07**

Beginning Page : Line	Ending Page : Line	Objection	Complete-ness	Basis for Objection/Additional pg/line for completeness
11:19	13:3	X		Irrelevant; FRE 403
13:21	14:7	X		Assumes facts; calls for speculative
26:15	26:23	X		Irrelevant; FRE 403
29:3	30:12	X		Irrelevant; FRE 403
32:19	32:22	X		Irrelevant; FRE 403
33:22	34:7	X		Hearsay, vague
34:13	35:5	X		Irrelevant; FRE 403
43:3	47:6	X		Irrelevant; speculative; hearsay
47:7	48:5	X		Assumes facts; speculative; hearsay
48:20	48:25	X		Hearsay
65:11	66:2	X		Irrelevant; FRE 403
70:24	71:5	X		Irrelevant; FRE 403
73:8	73:15	X		Irrelevant; FRE 403

Objections to Defendants' Counter Designations:

Deponent: **Lucy Castro**

Deposition Date: **7/11/2007**

Beginning Page : Line	Ending Page : Line	Objection	Basis for Objection/Additional pg/line for completeness
638:13	639:3	X	Irrelevant
640:11	641:4	X	Irrelevant; improper expert testimony by fact witness; FRE 702; lacks foundation
647:15	647:23	X	FRE 702; improper expert testimony by fact witness
690:14	691:21	X	Irrelevant
701:13	701:22	X	Lacks foundation; speculative

Objections to Defendants' Designations:

Deponent: **James Cato, M.D.**

Deposition Date: **6/29/07**

Beginning Page : Line	Ending Page : Line	Objection	Completeness	Basis for Objection/Additional pg/line for completeness
9:15	11:12	X		Irrelevant

Objections to Defendants' Designations:

Deponent: **Drew Charlton**

Deposition Date: **10/3/07**

Beginning Page : Line	Ending Page : Line	Objection	Completeness	Basis for Objection/Additional pg/line for completeness
15:9	15:16	X		Speculative
21:18	22:3	X		Speculative
25:1	25:9	X		Speculative; irrelevant

Objections to Defendants' Counter Designations:

Deponent: **Suzanne Doft**

Deposition Date: **6/13/2007**

Beginning Page : Line	Ending Page : Line	Objection	Basis for Objection/Additional pg/line for completeness
633:16	634:2	X	Irrelevant
645:1	646:13	X	Lacks foundation; speculative
647:22	648:15	X	Irrelevant

Objections to Defendants' Counter Designations:

Deponent: **Robert Glanzman**

Deposition Date: **8/2/2007**

Beginning Page : Line	Ending Page : Line	Objection	Basis for Objection/Additional pg/line for completeness
724:23	725:12	X	Lacks foundation; speculative
752:17	752:24	X	Irrelevant

Objections to Defendants' Designations:

Deponent: **Manfred Hauben**

Deposition Date: **7/12/07-7/13/07**

Beginning Page : Line	Ending Page : Line	Objection	Complete-ness	Basis for Objection/Additional pg/line for completeness
124:8	124:22	X		Non responsive
126:23	128:18	X		Non responsive
296:17	297:1	X		Non responsive; speculative
325:22	326:1	X		Hearsay
348:5	348:16	X		Speculative
349:2	349:14	X		Speculative; calls for expert testimony (regulatory/labeling)
452:11	453:1	X		Non responsive
525:8	525:17	X		Non responsive
530:24	531:4	X		Hearsay
531:9	531:22	X		Hearsay
549:22	550:11	X		Calls for expert testimony; lacks foundation

Objections to Defendants' Designations:

Deponent: **Buford Hoskins**

Deposition Date: **10/24/07**

Beginning Page : Line	Ending Page : Line	Objection	Complete-ness	Basis for Objection/Additional pg/line for completeness
43:21	44:8	X		Speculative; irrelevant
47:24	48:24	X		Speculative; irrelevant

Objections to Defendants' Designations:

Deponent: **Sherri Hoskins**

Deposition Date: **10/24/07**

Beginning Page : Line	Ending Page : Line	Objection	Completeness	Basis for Objection/Additional pg/line for completeness
6:20	7:16	X		Irrelevant
13:22	14:9	X		Irrelevant
23:20	24:1	X		Speculative
33:22	34:1	X		Speculative
40:16	41:4	X		Irrelevant; hearsay
42:25	43:8	X		Irrelevant; speculative
45:3	45:22	X		Irrelevant; speculative; vague
46:4	46:10	X		Speculative; vague
47:10	47:16	X		Hearsay
47:18	48:3	X		Hearsay
48:5	48:10	X		Speculative
48:22	49:2	X		Speculative
53:13	54:1	X		Speculative
68:1	68:5	X		Speculative
68:6	68:17	X		Irrelevant
68:18	69:9	X		Speculative
70:19	71:16	X		Irrelevant; vague

Objections to Defendants' Designations:

Deponent: **Lloyd Knapp**

Deposition Date: **6/28/07**

Beginning Page : Line	Ending Page : Line	Objection	Complete-ness	Basis for Objection/Additional pg/line for completeness
711 : 4	713 :25	X		Leading
715 : 4	715 : 9	X		Speculative

Objections to Defendants' Counter Designations:

Deponent: **Lloyd Knapp**

Deposition Date: **7/18/2006**

Beginning Page : Line	Ending Page : Line	Objection	Basis for Objection/Additional pg/line for completeness
189:13	190:3	X	Lacks foundation; speculative

Objections to Defendants' Designations:

Deponent: **Arnold Lawson**

Deposition Date: **10/4/07**

Beginning Page : Line	Ending Page : Line	Objection	Complete-Ness	Basis for Objection/Additional pg/line for completeness
7:23	7:23	X		Irrelevant
9:13	9:16	X		Irrelevant

Objections to Defendants' Designations:

Deponent: **Gayle Lawson**

Deposition Date: **10/4/07**

Beginning Page : Line	Ending Page : Line	Objection	Complete-Ness	Basis for Objection/Additional pg/line for completeness
17:2	17:11	X		Irrelevant
22:9	22:18	X		Speculative
25:6	25:15	X		Speculative
43:9	43:19	X		Speculative
46:21	47:21	X		Speculative
56:25	58:1	X		Speculative
63:2	63:14	X		Speculative
71:15	71:18	X		Speculative
77:20	78:5	X		Irrelevant
84:15	85:2	X		Speculative
85:10	86:6	X		Speculative
87:13	87:16	X		Speculative
91:21	91:25	X		Speculative
92:2	92:21	X		Speculative
93:2	93:8	X		Speculative

Objections to Defendants' Designations:

Deponent: **Edward Mackey, M.D.**

Deposition Date: **5/23/07**

Beginning Page : Line	Ending Page : Line	Objection	Completeness	Basis for Objection/Additional pg/line for completeness
108:23	109:19	X		Hearsay; speculative

Objections to Defense Counter Designations:

Deponent: Edward Mackey

Deposition Date: 05/23/2007

Beginning Page : Line	Ending Page : Line	Objection	Basis for Objection // Additional pg/line for completeness
115:23	117:18	X	Hearsay
109:7	109:12	X	sidebar

Objections to Defendants' Counter Designations:

Deponent: **John Marino**

Deposition Date: **7/3/2007**

Beginning Page : Line	Ending Page : Line	Objection	Basis for Objection/Additional pg/line for completeness
594:16	595:22	X	Speculative; lacks foundation
596:12	597:6	X	Speculative; lacks foundation
597:17	598:9	X	Speculative; lacks foundation
598:23	601:8	X	Speculative; lacks foundation; irrelevant
606:6	606:18	X	Lacks foundation; speculative; irrelevant
614:19	616:9	X	Lacks foundation; speculative
616:10	617:18	X	Relevance; lacks foundation; speculative
618:6	618:18	X	Lacks foundation; speculative
629:10	629:22	X	Lacks foundation; speculative; calls for legal conclusion
630:6	630:17	X	Lacks foundation; speculative; calls for legal conclusion
630:24	631:7	X	Asked/answered; lacks foundation; speculative; calls for legal conclusion
632:5	632:11	X	Asked/answered; lacks foundation; speculative; calls for legal conclusion

Objections to Defendants' Designations:

Deponent: **Paul McCombs, M.D.**

Deposition Date: **6/8/07**

Beginning Page : Line	Ending Page : Line	Objection	Completeness	Basis for Objection/Additional pg/line for completeness
6:15	6:20	X		Irrelevant
16:4	16:21	X		Irrelevant

Objections to Defendants' Designations:

Deponent: **Cynthia McCormick, M.D.**

Deposition Date: **2/14/08**

Consistent with Plaintiff's motion in limine, Docket No. 92, to exclude testimony of Defendants' expert Cynthia McCormick, Plaintiff objects to Defendants' submission of deposition designations relating to Cynthia McCormick, M.D. Notwithstanding Plaintiff's objections, Plaintiff shall submit counter-designations as attached hereto.

Beginning Page : Line	Ending Page : Line	Objection	Completeness	Basis for Objection/Additional pg/line for completeness
106 : 21	107 : 17	X		Form – leading, expert opinion by fact witness
108 : 13	109 : 6	X		Form – leading, improper expert opinion by fact witness
117 :1	117:20	X		Form – ambiguous and compound: use of words "suggest or recommend"
128 :2	128 :21	X		Form – leading
129:4	129:14	X		Expert opinion by fact witness
129 : 15	130 : 17	X		Form – leading
132:18	132:22	X		Hearsay
171 :3	171 : 11	X		Form – leading
172:7	172:11	X		Expert opinion by fact witness
175:24	176:17	X		Expert opinion by fact witness
182:12	182:19	X		Form – leading; calls for expert testimony; speculative
190:8	190:19	X		Expert opinion by fact witness
192:9	192:11	X		Expert opinion by fact witness

Objections to Defendants' Counter Designations:

Deponent: **Cynthia McCormick**

Deposition Date: **2/14/2008**

Beginning Page : Line	Ending Page : Line	Objection	Basis for Objection/Additional pg/line for completeness
109:9	111:8	X	Lacks foundation; speculative; incomplete hypothetical; answer non-responsive

Objections to Defendants' Designations:

Deponent: **Atul Pande, M.D.**

Deposition Date: **9/19/07-9/20/07**

Beginning Page : Line	Ending Page : Line	Objection	Completeness	Basis for Objection/Additional pg/lines for completeness
14:9	15:19	X		He is not a designated expert and wrote no expert reports; this resume was superseded: Exhibit 1; hearsay; irrelevant
603:14	632:17	X		Defendants does not list Pande as an expert on any subject and did not submit a Rule 26 report from him. During his deposition, he repeatedly stated that he is not an expert. He has not treated patients in almost 20 years, has never prescribed Neurontin, and does not read patient records. At p. 612, he says he does not follow the literature and has no access to company documents. Even so, Defendants' counsel elicited expert opinions from him on topics that require Rule 26 disclosure, preparation, report, and a foundation for the opinion. This section (pp. 603-632) covers his opinion on what it means that doctors are still prescribing Neurontin (no experience or foundation); where doctors get their information to make prescribing decisions; and the medicine's "overall safety profile".
616:20		X		Exhibit 41; CV; hearsay; irrelevant; did not identify him as expert or provide Rule 26 disclosures
624:21	632:17	X		Same objection; journal articles are not admissible, article not previously disclosed, and underlying research not reliable. He read a paper and received advice from a patent attorney to file the patent for Neurontin for bipolar. Exhibit 42;

				hearsay; article; expert opinion; no Rule 26 disclosure; opinion unreliable; FRE 702, <i>et seq.</i>
641:8	661:2	X		Same as above; hearsay; expert opinion about Parke-Davis thought processes
646:20		X		Same as above; interprets the outcome of a hearsay study; Exhibit 43; hearsay; article; expert opinion; no Rule 26 disclosure; unreliable; FRE 702, <i>et seq.</i>
657:24		X		Same as above, interprets the outcome of a hearsay study; Exhibit 44; hearsay; article; expert opinion; no Rule 26 disclosure; unreliable; FRE 702, <i>et seq.</i>

Objections to Defendants' Designations:

Deponent: **Danny Satterfield**

Deposition Date: **2/7/08**

Beginning Page : Line	Ending Page : Line	Objection	Complete-ness	Basis for Objection/Additional g/line for completeness
23:14	23:15	X		Irrelevant
46:24	47:9	X		Vague

Objections to Defendants' Designations:

Deponent: **Drusilla Scott**

Deposition Date: **12/13/07**

Beginning Page : Line	Ending Page : Line	Objection	Complete-ness	Basis for Objection/Additional pg/line for completeness
609:14	609:22	X		Lacks foundation; calls for speculative
613:6	614:11	X		Lacks foundation; calls for expert testimony
614:12	614:17	X		Lacks foundation; calls for expert testimony
614:18	615:5	X		Lacks foundation; calls for speculative; leading; calls for expert testimony

Objections to Defendants' Designations:

Deponent: **Cindy Smith-Charlton**

Deposition Date: **10/3/07**

Beginning Page : Line	Ending Page : Line	Objection	Completeness	Basis for Objection/Additional pg/line for completeness
27:12	27:20	X		Hearsay
69:3	69:18	X		Vague, ambiguous
118:4	119:2	X		Irrelevant; FRE 403; assumes facts not in evidence
124:22	125:8	X		Argumentative
158:13	160:16	X		Irrelevant; FRE 403
169:18	169:25	X		Irrelevant

Objections to Defendants' Designations:

Deponent: **Ruth Smith**

Deposition Date: **4/12/07**

Beginning Page : Line	Ending Page : Line	Objection	Complete-ness	Basis for Objection/Additional pg/line for completeness
5:9	5:17	X		Irrelevant; FRE 403
6:11	6:20	X		FRE 403
54:7	54:16	X		FRE 403
64:5	64:5	X		Irrelevant
64:13	64:22	X		Vague
70:15	70:25	X		Vague
97:22	98:4	X		Misstates facts
111:9	111:14	X		Hearsay
135:5	135:20	X		Hearsay
136:14	137:25	X		Hearsay; FRE 403; speculative

Objections to Defendants' Designations:

Deponent: **Stewart Stowers, M.D.**

Deposition Date: **6/28/07**

Beginning Page : Line	Ending Page : Line	Objection	Completeness	Basis for Objection/Additional pg/line for completeness
9:21	11:5	X		Irrelevant
50:13	50:19	X		Speculative

Objections to Defendants' Designations:

Deponent: **Charlie Taylor**

Deposition Date: **08/27/09**

Beginning Page : Line	Ending Page : Line	Objection	Completeness	Basis for Objection/Additional pg/line for completeness
7:22	9:14	X		Relevant; prejudicial
27:12	29:17	X		Lacks foundation – as to micrograph – for entire exhibit's use
79:4	79:24	X		Speculative; lacks foundation
95:17	97:23	X		Hearsay; lacks foundation
98:4	101:14	X		Hearsay; lacks foundation
125:8	129:17	X		Hearsay; lacks foundation
287:24	288:8	X		Leading

Objections to Defendants' Counter Designations:

Deponent: **Charlie Taylor**

Deposition Date: **6/4/2007**

Beginning Page : Line	Ending Page : Line	Objection	Basis for Objection/Additional pg/line for completeness
All	All	X	Plaintiff objects to all Defendants' designations of testimony because Dr. Taylor is Defendants' retained expert. Without adequate proof of his inability to testify in-person at trial, Plaintiff object to the introduction of Defendants' designations.

Deponent: **Charlie Taylor**

Deposition Date: **8/27/2009**

Beginning Page : Line	Ending Page : Line	Objection	Basis for Objection/Additional pg/line for completeness
All	All	X	Plaintiff objects to all Defendants' designations of testimony because Dr. Taylor is Defendants' retained expert. Without adequate proof of his inability to testify in-person at trial, Plaintiff object to the introduction of Defendants' designations.

Objections to Defendants' Designations:

Deponent: **Janeth Turner**

Deposition Date: **10/11/07-10/12/07**

Beginning Page : Line	Ending Page : Line	Objection	Complete-ness	Basis for Objection/Additional pg/line for completeness
52:24	53:10	X		Lacks foundation; no bases – FDA opinion
97:20	97 :23	X		Leading; calls for expert opinion; speculative
270:22	272:20	X		Non-responsive
556:22	557:2	X		Lacks foundation
567:17	568:25	X		Speculative; lacks foundation
570:24	571:13	X		Speculative
580:18	581:4	X		Speculative
586:2	587:17	X		Beyond direct -- leading

Objections to Defendants' Designations:

Deponent: **Chris Wood, D.D.S.**

Deposition Date: **6/7/07**

Beginning Page : Line	Ending Page : Line	Objection	Complete-ness	Basis for Objection/Additional pg/line for completeness
46:18	47:9	X		Irrelevant
49:17	49:23	X		FRE 403; speculative; irrelevant; hearsay; argumentative

Dated: May 12, 2010

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this the 12th day of May, 2010, I electronically filed the foregoing document with the Clerk of the Court, United States District Court for the Middle District of Tennessee, using the CM/ECF system. True and correct copies of the foregoing documents are being served via the Court's CM/ECF system on the following:

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